Single Bench

(1) (3)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR.

WRIT PETITION NO. 526 OF 2004

PETITIONER : Smt. Madhuri Tirkey, aged about 31 years W/o Shri Rajesh Karihar posted as Rural Agriculture Extension Officer (RAEO) at Setganga- Mungeli Distt. Bilaspur. (C.G.)

P.R. No. 4853/C.S. Presented by Shri Rahul Bajpai dated 13/12/04

V E R S U S

RESPONDENTS :

1. State of Chhattisgarh, Through: The Secretary, Agriculture Department, D. K. S. Bhawan, Raipur, (C.G.).
2. Director, Secretary Directorate Agriculture Raipur (C.G.)
3. Additional Director, Secretary Directorate Agriculture Raipur, (C.G.)
4. Shri C.N. Singh Deputy Director Agriculture Janjgir-Champa, District Janjgir-Champa (C.G.)
5. Sub-Divisional Officer (Agriculture) Mungeli, Distt. Bilaspur, (C.G.)

RECEIVED COPY 13/12/04 Clerk to A. G. Bilaspur

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUE OF AN APPROPRIATE WRIT IN THE NATURE OF MANDAMUS/CERTIORARI ETC. OR DIRECTION/ORDER IN THE LIKE NATURE ETC.

TO,

XI-HC-78

(55)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.No.526/2005 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

07.03.2005

Shri Rajesh Pandey, counsel for the petitioner.

Shri Sudhir Agrawal, Panel Lawyer for the State on advance copy.

Heard on admission.

Learned counsel for the petitioner submits that the petitioner was appointed as Rural Agriculture Extension Officer (RAEO) vide order Annexure-P/5 on 8.6.99. The appointment of the petitioner was made under the special drive for recruitment of candidates belonging to Schedule Castes and Schedule Tribes. The appointment of the petitioner was made on account of her being a member of Scheduled Tribe i.e. *Oraon* Caste. Counsel further submits that a charge-sheet dated 9.3.2004 has been issued to the petitioner vide Annexure-P/10 under the Civil Service (Classification, Control and Appeal) Rules, Rule, 1966 and the petitioner had been called upon to furnish her reply in relation to the said charge-sheet. The charges pertain to the caste of the petitioner. It is alleged that the petitioner submitted her caste as Schedule Tribe whereas in fact, she belongs to Schedule Caste.

Learned counsel for the petitioner also submits that the petitioner has already filed her reply to the said charge-sheet Annexure-P/11 dated 27.4.2004. Thereafter, enquiry officer has been appointed vide Annexure-P/12 dated 21.10.2004 and the enquiry is to

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(56)

मामला क्रमांक W.P. No. 526/2005 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

be conducted in this regard. The main prayer in the petition has been made for quashing of the enquiry.

The contention of the petitioner is that she does not belong to Schedule Caste, but she belongs to Schedule Tribe being a member of *Oraon* community and in this view of the matter, no prima facie misconduct has been committed by the petitioner. The question in relation to finding of caste of an employee is a question of fact, which cannot be dealt with in writ jurisdiction by this Court. If the validity of enquiry has been challenged on factual grounds, this Court cannot interfere in the procedure of enquiry at the intermediate stage of appointment of the enquiry officer. The disputed questions of fact are to be decided in the proceeding of enquiry after considering the evidence led by the parties concerned. It is after this only, a finding can be recorded for this point.

The validity of the charge-sheet cannot be assailed on this grounds unless the very initiation of the enquiry is challenged on the ground of jurisdiction of the disciplinary authority or they are challenged on being voilative of any rules framed there for, this Court cannot interfere with the order at this stage.

The petition has no merit and the same is dismissed at the admission stage.

Sd/-
SUNIL KUMAR SINHA
Judge